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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

In the Matter Of:

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Implementation of Section 255 of the
Telecommunications Act of 1996

WT Docket No. 96-198

REPLY COMMENTS OF GTE

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I. INTRODUCTION

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GTE Service Corporation, on behalf of its affiliated domestic telephone operating and wireless, companies ("GTE"), hereby replies to the comments filed on the above-captioned *Notice of Inquiry*.¹ By this *NOI*, the Commission seeks public comment on implementing Section 255 of the Telecommunications Act of 1996 ("1996 Act"), which requires telecommunications service providers and manufacturers to ensure that telecommunications services are accessible to, and usable by, individuals with disabilities, if readily achievable. GTE supports the goal of ensuring that the benefits of advanced telecommunications are not denied to individuals with disabilities. Further, GTE's experience demonstrates the benefits of inter-industry education and cooperation in addressing access and use issues. Therefore, GTE urges the Commission to implement Section 255 in a manner that recognizes, and builds upon, a cooperative approach toward compliance.

¹ *Implementation of Section 255 of the Telecommunications Act of 1996, Access to Telecommunications Services, Telecommunications Equipment, and Customer Premises Equipment By Persons With Disabilities*, FCC 96-382 (rel. Sept. 19, 1996) ("*NOI*" or "*Notice of Inquiry*").

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II. ENSURING SECTION 255 COMPLIANCE IS A COMPLEX AND FAR-REACHING TASK THAT WILL REQUIRE ALL AFFECTED ENTITIES TO PRODUCE COOPERATIVE, CREATIVE SOLUTIONS TO ACCESSIBILITY AND USE ISSUES

The record in the proceeding fairly demonstrates the breadth and complexity of developing administratively simple and workable processes for ensuring Section 255 compliance. First, as many manufacturers and service providers have observed, there is no clear line dividing equipment and service issues.² GTE believes that, at a minimum, this dictates that Section 255 compliance procedures should encourage manufacturers and service providers to collaborate in developing solutions. At the same time, however, the record appears to show that many access problems will largely be resolved through capabilities and features in customer equipment.³ Because customer devices, to a large degree, represent the means by which consumers physically interact with services, equipment can determine customers' access to network resources. Under these circumstances, GTE believes the importance of the Telecommunications Access Advisory Committee ("TAAC") in developing equipment guidelines cannot be understated.⁴

² Consumer Electronics Manufacturers Association Comments at 7-8; Information Technology Industry Council Comments at 9; Microsoft Corporation Comments at 9-11; Sprint Corporation Comments at 5-6 n.2.

³ Motorola, Inc. Comments at 18-19; Pacific Telesis Group Comments at 9.

⁴ See, e.g., American Foundation For The Blind Comments at 16 (discussions of the TAAC and the Access Board have been fruitful and can lead to constructive proposals for a compliance process and set of guidelines that could be finalized through the FCC's rulemaking process); Massachusetts Assistive Technology Center Comments at 6 (supports the compliance model currently under discussion in the TAAC and believes that a collaborative process between industry and the disability community is most productive).

Second, the record shows that there is no single "access and use" solution that can be applied to all services and equipment.⁵ In large part, access and use solutions will need to be tailored for different classes of services, types of equipment, and forms of disabilities. Indeed, some access and use remedies designed for one class of customer may, in fact, exacerbate access and use difficulties experienced by individuals with different types of disabilities or differing levels of severity.⁶ From this premise, it is clear that no single device will be capable of addressing all possible access and use issues, and concerns regarding a single "high end" solution are unfounded.⁷ At the same time, it is also clear that every device cannot be required to address all possible access and use issues. Instead, GTE believes that, consistent with the 1996 Act's goal of increasing choice for customers, the differences in types of access and use solutions will by necessity give rise to a range of options within product and service lines meeting disparate needs and desires.⁸

Third, commenters have underscored the inherent difficulty in attempting to craft

⁵ See MCI Comments at 4 (it is unrealistic to think that all telecommunications services can be made accessible to all persons); Motorola, Inc. Comments at 19-21 (persons with disabilities should have access to a range of products at different prices, rather than access to every product); Personal Communications Industry Association Comments at 6-7 (no one product can be accessible and usable by everyone).

⁶ See Cellular Telecommunications Industry Association Comments at 9-10 (opposing "one size fits all" solution); Personal Communications Industry Association Comments at 7 (noting that voice pagers can be used by the visually impaired, but not by the hearing impaired).

⁷ Cf. American Foundation For The Blind Comments at 12 (expressing fear that only "high end" products will be available).

⁸ AT&T Comments at 10-11; Consumer Electronics Manufacturers Association Comments at 9-10; Microsoft Corporation Comments at 28-30.

clear obligations when each access or use issue will require a complex balancing of many factors under the broad rubric of what constitutes a "readily achievable" measure.⁹ Based upon the ADA's definition of "readily achievable" measures as those "easily accomplishable and able to be carried out without much difficulty or expense,"¹⁰ cost is virtually a determining factor.¹¹ To add further to the complexity, competition in the telecommunications industry on all fronts will require that the cost implications of proposed access and use solutions be balanced against the competitive goals and policies of the 1996 Act. This will require, among other things, that resulting obligations be applied in an evenhanded and competitively neutral manner.

For example, as the Telecommunications Industry Association ("TIA") has noted, even the issue of parent/subsidiary relationships has important competitive implications.¹² More and more, subsidiaries are being run like small businesses held accountable for their own profits and losses, and responsible for their own strategic

⁹ See, e.g., Ericsson Inc. Comments at 7 (some factors that are not relevant to entities or facilities subject to the ADA but that are important in the telecommunications market are: the technical complexity of new telecommunications systems and protocols; the need for different types of networks to interconnect with one another; the speed that new technology is being developed; the rapid introduction of new equipment, products and services; the relatively long lead time necessary to design new telecommunications equipment and CPE; the cost to develop new telecommunications equipment and CPE; the relatively short "shelf life" of new telecommunications equipment and CPE; and the fierce nature of competition within telecommunications markets); Microsoft Corporation Comments at 25-27; Motorola Inc. Comments at 14-19.

¹⁰ 42 U.S.C. § 12181(9).

¹¹ Consumer Electronics Manufacturers Comments at 10-11; Lucent Technologies Comments at 16-18; Sprint Corporation Comments at 6-7.

¹² TIA Comments at 6. See also Pacific Telesis Group Comments at 17-18.

decisions and direction. To compete head-to-head with nimble and quick stand-alone companies, these subsidiaries are responding to the pressure to decentralize management in order to stay "closer" to their customers and become more responsive to their needs. Thus, as TIA and others have noted, the role of parent corporations in the business decisions and operations of these subsidiaries is significantly attenuated and its existence therefore should not be relevant in determining whether an access or use proposal is "readily achievable."

Moreover, including the total resources of a parent company, derived from the operations of different subsidiaries, may only serve to skew the entire "readily achievable" analysis. Thus, for example, an access proposal that becomes "readily achievable" only when the total resources of a parent company are included in the analysis will be ill-suited, if not improper, for application to a telecommunications provider of like size that does not have a parent company with similar aggregate resources. The end result may be a patchwork of obligations that do not result in the consistent availability of access across all industry providers.

The potential impact of assessments under Section 255 also could have a tremendous impact on the competitiveness of domestic companies here and abroad. While GTE joins with the majority of commenters favoring efforts by the United States to harmonize its regulations under Section 255 with the regulations of other countries,¹³

¹³ See, e.g., Arkenstone, Inc. Comments at 5-6; Consortium For Citizens With Disabilities Comments at 6; Massachusetts Assistive Technology Partnership Center Comments at 2.

GTE also notes that in cases where harmonization does not occur, the impact of decisions under Section 255 may have global ramifications that should be recognized. For principally this reason, GTE also joins with commenters arguing that rules must be uniformly applied to products and services within the United States to avoid restricting domestic companies' ability to compete, and to ensure that consumers with disabilities can choose from the widest possible variety of accessible products and services.¹⁴

In view of the sheer complexity of the decisions that will be required to establish fair and effective access and use policies, GTE believes it is premature to attempt to define a correlating compliance procedure. GTE agrees that the suitability of existing complaint procedures for resolving Section 255 complaints should be explored in the context of the planned Section 207 and 208 rulemaking.¹⁵ Even at this stage, however, it is apparent that the existing complaint process, fundamentally designed to adjudicate disputes between individual entities, may not be well-suited to effectuate the broader, industry-wide decisionmaking that may be necessary to achieve the ends of Section 255.

Similarly, the notice and comment rulemaking processes of the Administrative Procedure Act may not be the optimum means for developing certain types of access and use policies. In a dynamic area where mutual understanding and vigorous

¹⁴ Arkenstone Inc. Comments at 5-6; Consumer Action Network Comments at 3-4; Ericsson Inc. Comments at 9.

¹⁵ See NOI, ¶ 37, n.30 (stating that the Commission will shortly consider a separate rulemaking addressing the effects of the 1996 Act on the complaint process); AT&T Comments at 13-14 (stating that the Commission should address the Section 255 complaint process in the context of this upcoming proceeding).

interaction are necessary to advance the public interest, alternative procedures, such as negotiated rulemakings, may be more appropriate. GTE notes, for example, the success of the Commission's recent negotiated rulemaking on Hearing Aid Compatibility.¹⁶ To a degree, more systemic negotiated processes have already commenced with the Access Board's Telecommunications Access Advisory Committee ("TAAC"), which includes representatives from a broad cross-section of the telecommunications industry as well as representatives of disability advocacy groups.

Indeed, GTE believes it may be appropriate for the Commission to build on the work of the TAAC in developing Section 255 guidelines for telecommunications providers. While GTE recognizes that the TAAC is charged with developing guidelines for equipment manufacturers, GTE has already noted that the large bulk of initial access and use issues may relate principally to equipment, and that further access and use solutions are likely to involve both equipment and service facets. In effect, GTE believes the Commission can pick up where the TAAC guidelines leave off by categorizing classes of access and use problems related to telecommunications services into smaller, more manageable functional categories.

III. CONCLUSION

GTE supports the goals of Section 255 to ensure access to, and use of, telecommunications products and services by all Americans, regardless of their

¹⁶ See Personal Communications Industry Association Comments at 9-10 (noting PCIA's efforts in bringing the industry together to develop compatibility standards for hearing aids and wireless devices).

physical limitations. However, the passage of this section has already set into motion tremendous efforts by manufacturers, telecommunications carriers, and disability advocacy groups to develop meaningful and efficient solutions to access and use problems through ongoing dialogues at the TAAC. Rather than duplicating this effort, GTE urges the Commission to allow the process to come to fruition and then, with greater knowledge and appreciation of the concerns and their potential solutions, attempt to craft specific regulations, policies, or guidelines for the industry.

Respectfully submitted,

GTE Service Corporation and its affiliated
domestic telephone operating and wireless
companies

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